



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Merdan Group, Inc.

File: B-231880.3

Date: February 28, 1989

DIGEST

1. Notwithstanding greater importance of other factors in overall evaluation scheme, agency may make award to lower-cost offeror where record establishes that contracting officer reasonably determined proposals to be technically equal.
2. Protest against use of adjectival ratings for evaluation of proposals is denied since use of adjectival ratings scheme to evaluate offers generally is proper and record shows that adjectival ratings accurately reflected evaluators' point scoring and narrative evaluation.

DECISION

Merdan Group, Inc., protests the award of a contract to Comcon, Inc., under request for proposals (RFP) No. DAAB07-88-R-C257 issued by the Department of the Army for the acquisition of scientific engineering and integrated logistics support services at Fort Huachuca, Arizona. Merdan objects to the agency's determination of technical equality between the Merdan and Comcon offers and the agency's decision to award to Comcon because of its lower price as unreasonable and not in accordance with the RFP evaluation scheme. We deny the protest.

The RFP contemplated award of an indefinite delivery time and materials contract based on firm-fixed labor rates and provided that award would be made to the "best overall proposal" representing the "best value" to the government. In addition, the RFP specified four evaluation factors which were listed in descending order of importance: technical qualifications, management control, personnel and cost. The solicitation further specified that, of the four enumerated evaluation factors, technical qualifications was of greater weight than the other three factors combined, and that the remaining factors were listed in descending order of

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importance. The first three factors were further divided into various subfactors which were listed in descending order of importance. Cost, the fourth factor, was divided into two subfactors (cost proposal and cost realism) which were of equal weight.

In response to the solicitation, six firms submitted offers. After initial evaluation of proposals, issuance of clarifying questions and evaluation of the clarification responses, the evaluators concluded that three firms were within the competitive range. As to these three firms, which included the protester and awardee, all were given an overall adjectival rating of "superior." The contracting officer then solicited and received best and final offers (BAFOs) from the three firms. After reviewing the evaluation results which included the evaluators' point scores, narrative statements and adjectival ratings, the contracting officer determined that all three firms' proposals were essentially technically equal. The three firms proposed the following total costs: Comcon - \$3,487,326.00, RAM - \$3,946,251.13, Merdan - \$4,194,994.62.

The contracting officer reviewed each firm's cost proposal, concluded that all of the offered fixed rates were realistic, and made award to Comcon, as the lowest-cost offeror among the three firms which he had rated essentially equal.

Merdan argues that the agency did not give proper weight to the solicitation's evaluation criteria in making its award decision because it improperly converted the scores given to each firm's proposal in each of the three non-cost evaluation factors into a single adjectival rating for each proposal. According to Merdan, the adjectival scoring scheme created an artificial equality among the three offerors which obscured the relative strengths and weaknesses of each proposal and resulted in an incorrect finding of equality and ultimately an unreasonable source selection decision. Merdan, in effect, challenges the agency's finding that the proposals were equal and the resulting decision to award based on cost.

Initially, we point out that, in reviewing protests of allegedly improper evaluations, our Office will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation scheme and in accordance with applicable procurement statutes and regulations. See Talbot & Korvola, B-231569, Sept. 27, 1988, 88-2 CPD ¶ 288. Whether a given point spread between competing offerors alone may indicate significant superiority of one proposal over another depends on the facts and

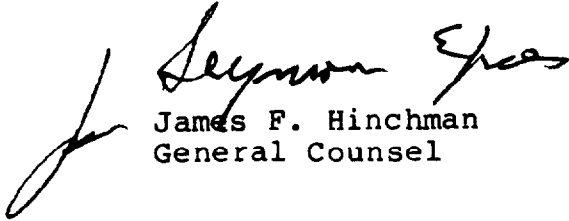
circumstances of each procurement, and while technical point scores and descriptive ratings must be considered by source selection officials, such officials are not bound thereby. PRC Kentron, B-225677, Apr. 14, 1987, 87-1 CPD ¶ 405. Rather, source selection officials must determine if they agree that the point scores are indicative of technical superiority and what the difference in point scores may mean in contract performance. Id. Where selection officials reasonably regard technical proposals as being essentially equal, cost or price may properly become the determinative factor in making an award, even where the RFP evaluation scheme assigns cost less importance than technical non-cost factors. Actus Corp. et al., B-225455, Feb. 24, 1987, 87-1 CPD ¶ 209. Worldmald Fire Sys., B-224514, Feb. 20, 1987, 87-1 CPD ¶ 189.

We find no merit to the protester's contention that the use of adjectival ratings produced an artificial equality in the ratings of the offerors. Merdan scored 790.2 points, while Comcon scored 789.6, for a difference of approximately one half point. The closeness in points clearly supports the contracting officer's decision that these proposals were essentially equal. While Merdan rated a slightly higher score for management control, Comcon received a slightly higher score for personnel. However, the evaluators did not find significant differences in the proposals and found award to either of these firms would "involve very low risk." Given the closeness in total point scores and the evaluators' findings that differences in the proposals were not significant and that award to any of the firms involved very low risk, we have no basis to question the contracting officer's finding of equality among these firms. Hence, cost properly became the determinative factor for source selection purposes even though the evaluation criteria had originally assigned it less importance than noncost factors. See Seatac, Inc., 62 Comp. Gen. 577 (1983), 83-2 CPD ¶ 121.

Merdan also alleges that the rates offered by Comcon were unreasonably low, we point out that the record reflects that the contracting officer, after a price analysis, concluded that Comcon's rates were realistic and reasonable. We note in this connection that Comcon's offer was substantially lower than the government's independent cost estimate. Moreover, in light of the fact that firms were required to submit fixed rates per labor hour in each of the various labor hour categories (and award was made on this basis), Comcon and not the government will bear any cost beyond the

firm's proposed hourly rates under the resulting contract.
See Unidyne Corp., B-232124, Oct. 20, 1988, 88-2 CPD ¶ 378.
We therefore see no reason to question the contracting
officer's cost evaluation.

The protest is denied.



James F. Hinchman
General Counsel